

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

CHRISTOPHER BROWN

PLAINTIFF

VS.

CIVIL ACTION NO. 3:08CV414TSL-JCS

THOMAS ATCHLEY WALKER

DEFENDANT

ORDER

This cause is before the Court *sua sponte*. The Court has held an omnibus hearing¹ in this matter, at which time it conferred with the plaintiff and counsel for the defendant in this suit founded upon 42 U.S.C. § 1983. At that hearing, the parties consented to have the undersigned to conduct any and all further proceedings in the case and order the entry of final judgment. Brown is proceeding in this matter *in forma pauperis*, 28 U.S.C. § 1915. The court now evaluates those claims pursuant to 18 U.S.C. § 1915(e)(2), and for the reasons described herein, finds that this case should be dismissed. with prejudice.

Plaintiff, a pre-trial detainee in the custody of Hinds County, has been charged with the murder of his four-month old infant son. He is suing defendant Thomas Atchley Walker, a doctor at the University Medical Center (UMC) for medical malpractice. According to Brown, after an accident had occurred and he and the baby's mother had brought the child to the facility for treatment, defendant and others at UMC actually killed his son by administering a shot of dopamine. As plaintiff's claims sounds in negligence, it is not cognizable under § 1983 and will be dismissed. Neals v. Norwood, 59 F.3d 530, 532 (5th Cir. 1995) (allegation of negligence will not support a claim under 42 U.S.C. §1983).

¹See Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985).

Based on the foregoing, it is ordered that the complaint is dismissed with prejudice.

SO ORDERED this the day 20th day of February, 2009.

/s/ James C. Sumner
UNITED STATES MAGISTRATE JUDGE